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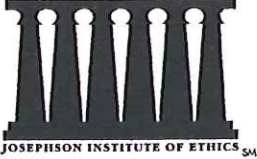
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MEMORANDUM

TO: Frederick County Planning Commission
FROM: Kathy L. Mitchell, Assistant County Attorney *KLM*
DATE: June 13, 2012
RE: Amendment to Ordinance No. 11-18-584 (School Construction Fees) to Remove Transitional Restrictions

BACKGROUND

Under the authority granted in Article 66B, §10.01, the Board of County Commissioners of Frederick County, Maryland ("BOCC") has established an Adequate Public Facilities Ordinance ("APFO"), codified as Chapter 1-20 of the Frederick County Code.

On July 21, 2011, by Ordinance No. 11-18-584, the BOCC established a new School Construction Fee option for meeting the public school adequacy requirements. Ordinance No. 11-18-584 included transitional provisions that limited use of the School Construction Fee Option to "applications for subdivision, re-subdivision, site plan, PUD or PDR approval or re-approval that have not received APFO approval as of the effective date of this Ordinance."

DISCUSSION

On May 10, 2012, the BOCC initiated the public process to revise Ordinance No. 11-18-584 to remove the language quoted above. Although these provisions have been used in connection with previous APFO amendments, these restrictions are not necessary for the School Construction Fee option, which allows developers an alternative way to satisfy APFO school requirements.

The proposed revisions allow developments that received APFO approval on or before July 21, 2011 to modify their APFO approval to utilize the School Construction Fee option.

RECOMMENDATION

The Planning Commission should recommend adoption or denial of the changes shown in the attached draft ordinance.

Attachments

THE EFFECTIVE DATE OF THIS ORDINANCE IS _____, 2012

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND ORDINANCE NO. 11-18-584 REGARDING
THE APFO SCHOOL CONSTRUCTION FEE OPTION**

Background

Under the authority granted in Article 66B, §10.01, the Board of County Commissioners of Frederick County, Maryland ("BOCC") has established an Adequate Public Facilities Ordinance ("APFO"), codified as Chapter 1-20 of the Frederick County Code.

On July 21, 2011, by Ordinance No. 11-18-584, the BOCC revised the APFO to establish a new School Construction Fee option for meeting the public school adequacy requirements. Ordinance No. 11-18-584 included transitional provisions that limited use of the School Construction Fee Option to "applications for subdivision, re-subdivision, site plan, PUD or PDR approval or re-approval that have not received APFO approval as of the effective date of this Ordinance [July 21, 2011].

Although the transitional provisions of Ordinance No. 11-18-584 have been used in connection with prior APFO amendments, experience with the School Construction Fee option indicates that these restrictions are not necessary, and that developments that received APFO approval as of July 21, 2011 may be allowed to choose to modify their APFO approval to utilize the School Construction Fee option.

This Ordinance was initiated by the BOCC at a meeting on May 10, 2012, and was referred to the Frederick County municipalities for comment on May 16, 2012.

The Frederick County Planning Commission held a duly advertised public hearing on the proposed amendments to the APFO on June 13, 2012, and recommended _____ of this Ordinance; and

The Board of County Commissioners held a duly advertised public hearing on this Ordinance on June 19, 2012, at which time the public had a reasonable opportunity to comment on the proposed revisions and amendments.

Pursuant to Section 1-20-23(A) of the APFO, the Board of County Commissioners finds the proposed revisions and amendments to the APFO, as set forth in this Ordinance, to be in the best interests of the citizens of Frederick County and consistent with the general intent of the APFO.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of County Commissioners for Frederick County, Maryland, that:

Ordinance No. 11-18-584 is hereby amended to remove the following paragraph:

~~AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall apply to applications for subdivision, re-subdivision, site plan, PUD or PDR approval or re-approval that have not received APFO approval as of the effective date of this Ordinance.¹~~

The undersigned hereby certifies that this Ordinance was approved and adopted on the 19th day of June, 2012.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
FREDERICK COUNTY, MARYLAND

David B. Dunn, County Manager

By: _____ (SEAL)
Blaine R. Young, President

¹ Text shown as strike-through is proposed to be deleted from the Ordinance.